

ORIGINAL

FILED

March 14 2014

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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COUNSEL FOR PLAINTIFF AND APPELLEE

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 13-0536

CITY OF MISSOULA,

Plaintiff and Appellee,

v.

MARTIN MULIPA IOSEFO,

Defendant and Appellant.

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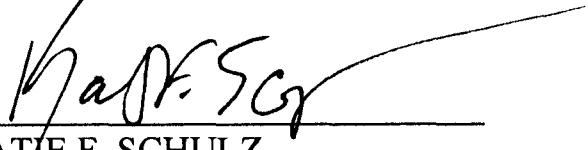
**UNOPPOSED MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

The Appellee, State of Montana, respectfully requests a **7-day** extension of time from the date this Court rules on the State's March 14, 2014 Unopposed Motion to Supplement the Record on Appeal, in which to prepare, serve, and file its response brief in the above-entitled matter all as more particularly described below.

In support of this motion, undersigned counsel respectfully submits the following affidavit in support as well as a contemporaneously filed Unopposed Motion to Supplement the Record on Appeal, incorporated herein by this reference. Opposing counsel has been contacted about this motion and he does not oppose this Court granting the State an additional seven (7) days from the date it rules on the State's Unopposed Motion to Supplement the Record in which to file its response.

Respectfully submitted this 14th day of March, 2014.

TIMOTHY C. FOX
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215 North Sanders
Helena, MT 59620-1401

By: 
KATIE F. SCHULZ
Assistant Attorney General

STATE OF MONTANA)
 : ss.
County of Lewis and Clark)

I, Katie F. Schulz, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Montana Department of Justice, Office of Attorney General, Appellate Services Bureau, as an Assistant Attorney General.

2. In my capacity as Assistant Attorney General, I have been assigned to handle the above-entitled matter.

3. The State's opening brief was first due on December 21, 2013. The brief is presently due on March 21, 2014. This is Appellee's fourth request for an extension of time.

4. On February 10, 2014, the undersigned discovered that a relevant audio recording of a lower court evidentiary hearing in this matter was not included in the District Court Record sent to this Court. A request was made for the audio to be sent to the Clerk of Court as soon as possible. On February 18, 2014, the Clerk of Court submitted an audio, but it was only an audio of the defendant's change of plea hearing and not the relevant evidentiary hearing. The undersigned then sought to obtain a copy of the January 4, 2014 audio and received it from the City Attorney. Since that time, the undersigned has forwarded a copy of the audio to opposing counsel for review and has sought opposing counsel's opinion on submitting the audio to this Court to supplement the record.

5. In addition to the missing audio delaying completion of the State's response brief, the undersigned's workload has made it difficult to meet the present deadline. My workload is as follows:

a. The undersigned has recently filed response briefs in the Montana Supreme Court in the following cases: *State v. Broadwater*,

Case No. DA 13-0414, filed February 18, 2014; *State v. Beaudet*, Case No. DA 13-0287, filed February 21, 2014; *Walker v. Montana*, Case No. OP 14-0031, filed February 28, 2014; and in *In re A.M.*, Case No. DA-13-0557, filed March 6, 2014.

b. The undersigned is also preparing response briefs for the following cases: *State v. Braulick*, Case No. DA 13-0175, presently due March 22, 2014; *In re D. L.*, Case No. DA 13-0672, presently due March 30, 2014; *Vondal v. Frink*, Case No. OP 14-0079, presently due April 3, 2014; *State v. Mahoney*, Case No. 13-0527, pending an order granting an extension, will be due April 14, 2014; and an answer to the U.S. District Court in *Anderson v. Brilz, et al.*, Case No. CV 13-84-BLG-SEH-CSP, presently due March 30, 2014.

c. *In re D.L.* was assigned after Respondent's last motion to extend and given the nature of those cases (youth in need of care matters) extensions of time are generally not sought by the State.

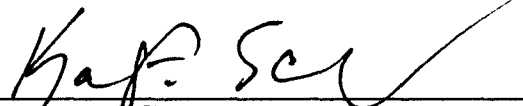
6. An extension of time is necessary so this Court may consider the contemporaneously filed Unopposed Motion to Supplement the Record and the undersigned can complete an adequate answer incorporating the supplemented material, if granted, into the State's response.

7. I will work diligently to complete the matter in the time requested.

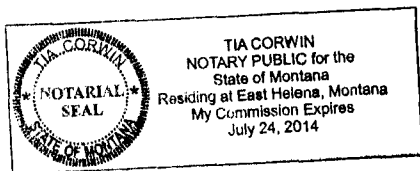
8. Opposing counsel has been contacted concerning this motion and does not object.

9. Further your affiant sayeth naught.

Respectfully submitted this 14th day of March, 2014.


KATIE F. SCHULZ

SUBSCRIBED AND SWORN to before me this 14th day of March, 2014.





CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing
Unopposed Motion for Extension of Time and Affidavit in Support, to be mailed,
first class postage prepaid, to:

Mr. James P. O'Brien
O'Brien Law Office, P.C.
P.O. Box 7936
Missoula, MT 59801-7936

Mr. Gary Hendricks
Senior Deputy Missoula City Attorney
435 Ryman
Missoula, MT 59801

DATED: 3-14-14 K. H. Sey